

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND DIVISION**

IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION

THIS DOCUMENT RELATES TO:

Michael Masiowski, MD.,

On behalf of himself and all others
similarly situated,

Plaintiff

v.

Amerisourcebergen Drug Corporation et al,

Defendants.

Member Case #: 1:18-op-45985-DAP

Judge Dan Aaron Polster
(MDL 2804)

Lead case: 1:17-md-02804-DAP

**MOTION FOR EXTENSION OF TIME TO PERMIT PLAINTIFF TO FILE STAND
ALONE MOTION FOR LEAVE TO AMEND TO ADD DEFENDANTS**

On April 22, 2024, the PEC moved this Court to lift the moratorium on substantive filings to permit plaintiffs to file motions for leave to amend to add additional defendants (“Motion to Lift Moratorium”) (ECF 5411). On May 23, 2024, this Court issued an Order granting the PEC’s motion to lift said moratorium finding that “[f]or each defendant the PEC wishes to add to any case, the PEC shall file a single motion to amend the complaints of all plaintiffs who wish to add that defendant.” ECF 5455 at 1. The Court set July 22, 2024, as the deadline for Plaintiffs’ motions to amend complaints to add defendants. Id. at 2. On July 2, 2024, the PEC moved this Court to Extend the Time to Permit Plaintiffs to File Motions for Leave to

Amend to Add Defendants Related to Purdue Pharma, L.P. (ECF 5455). The Court subsequently granted Plaintiffs' motion.

On July 2, 2024, Plaintiff Masiowski, by and through his Attorney and on behalf of a putative national class of Independent Emergency Room Physicians, contacted the PEC with respect to the amendment process along with potential concerns regarding prospective defendants to be added. On July 3, 2024, the PEC advised Plaintiff Masiowski to file a stand-alone motion. Other than the Government Subdivisions, it is Plaintiff's understanding that only he has been requested to file a stand-alone motion separate from the PEC. In light of these developments, and the potentially significant work necessary to identify additional appropriate defendants, Plaintiff Masiowski respectfully seeks to extend the time to file a motion for leave to amend to add additional defendants.

Because this Court has directed that the upcoming July 22, 2024 deadline "will be plaintiffs' final opportunity to amend their complaints," (ECF 5455), if this extension is not granted, Independent Emergency Room Physicians will suffer the irreparable prejudice of losing the opportunity to seek leave to amend complaints to add appropriate Defendants and sufficiently demonstrate to the Court good cause for said amendments. Therefore, extension of time sought here is thus for good cause and meets the requirements of Rule 16(b) of the Federal Rules of Civil Procedure, which requires that the Court limit the time to join other parties and further provides that the time, once set, "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 15, 16(b).

For the foregoing reasons, Plaintiff Masiowski respectfully requests that this Court extend the time by which he may file a motion for leave to amend with respect to all prospective Defendants, apart from Purdue Related Parties, until 60 days from the entrance of an Order on

this matter. Plaintiff Masiowski additionally requests that this Court confirm whether the form and content required of Plaintiff Masiowski's anticipated motion for leave to amend is to be similar to that required of the PEC.¹

Plaintiff Masiowski further respectfully requests that this Court similarly extend the time by which Plaintiff Masiowski may bring motions to amend solely with respect to the Purdue Related Parties until 30 days after any and all injunctions regarding such parties are lifted.

Dated: July 16th, 2024

Respectfully submitted,

/s/ Paul S. Rothstein

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¹ "For each defendant the PEC wishes to add to any case, the PEC shall file a single motion to amend the complaints of all plaintiffs who wish to add that defendant. Each defendant-specific motion may be broken into two parts—one part addressing facts that apply to all plaintiffs seeking to add that defendant, and one part addressing plaintiff-specific facts and law against that defendant. In the second part of each of these defendant-specific, omnibus motions, the PEC must supply: (1) a list of all cases seeking to add that defendant; (2) any plaintiff-specific factual allegations pertinent to each individual case; (3) any jurisdiction-specific claims the plaintiff seeks to add to (or dismiss from) each individual case; and (4) good cause for the proposed amendments, stating with particularity the reasons amendment should be permitted in each individual case." Order Granting the PEC's Motion for Leave to Permit Plaintiffs to file Motions for Leave to Amend Complaints to Add Defendants. (ECF 5455)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this July 16, 2024, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF system.

/s/ Paul S. Rothstein

Paul S. Rothstein